HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4715 of 2007

Dated:19.04.2007

Between:

P.Venkatesham.

…Petitioner

and

The Joint Collector-II, and others.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4715 of 2007

ORDER:

The petitioner herein claims to be the owner of agricultural land admeasuring Acs.31.20 guntas in survey Nos.188, 191, 642 and 698 situated at Shamshabad Village. He filed an application under the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short, 'the Act'), before the Revenue Divisional Officer, Chevella, seeking rectification of the name in the Occupancy Rights Certificate, which was dismissed. Therefore, he filed an appeal before the Joint Collector. Ultimately, the said appeal came to be dismissed. Then, he filed the writ petition, being W.P.No.7489 of 2005, before this Court seeking a writ of mandamus challenging the proceedings of the first respondent, dated 03.03.2005, whereunder the appeal filed by the petitioner was dismissed as time barred. This Court disposed of the same and gave liberty to the petitioner to approach the Revenue Divisional Officer by filing an appropriate application. In pursuance thereof, he filed an appeal before the second respondent. In the said appeal, the third respondent herein was shown as respondent. In the proceedings No.L/4434/2005, dated 13.02.2006, the second respondent ordered amendment to Occupancy Rights Certificate, dated 28.02.2002, incorporating the name of the petitioner as owner of land admeasuring Acs.33.20 guntas. Aggrieved by the same, the third respondent herein preferred an appeal under Section 24 of the Act, being case in File No.F1/4394/2006. By order, dated 09.02.2007, the first respondent-the appellate authority; set aside the order of the Revenue Divisional Officer, dated 13.02.2006, and remanded the

matter for fresh enquiry. Aggrieved by the same, the present Writ Petition is filed. The Writ Petition is filed mainly raising the ground that notice was not issued to the petitioner before passing the impugned order.

When the case was called on 08.03.2007 for preliminary hearing, the learned Assistant Government Pleader for Revenue (General-T) opposed the Writ Petition. However, he did not deny that the acknowledgment in proof of service of notice on the petitioner is not found in the file pertaining to case No.F1/4394/2006. Therefore, this Court ordered notice to respondents 3 to 5, who are now represented by duly instructed counsel. When the matter was taken up for enquiry by the first respondent, the third respondent herein was represented by a counsel, but no vakalat was filed for the petitioner. The matter was again called on 09.02.2007, but none appeared for the petitioner. The matter was decided and remitted to the second respondent. It is seen from the file that by the date of passing the order by the first respondent, notice was not served on the petitioner, and therefore, the first respondent would not have passed order setting aside the proceedings of the Revenue Divisional Officer, which were in favour of the petitioner. On this limited ground alone, the impugned order is unsustainable.

In the result, the impugned order is set aside and the matter is remitted to the first respondent with a direction to issue fresh notice to the petitioner and respondents 3 to 5 and dispose of the matter within a period of eight (8) weeks from the date of receipt of a copy of this order.

The Writ Petition is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

19.04.2007

Note:Furnish C.C. tomorrow.

(B/o)

GJ